

DT 02-176

VERIZON NEW HAMPSHIRE/KMC TELECOM V, INC.

Order Approving Adopted Interconnection Agreement

O R D E R N O. 24,094

December 11, 2002

On September 24, 2002, Verizon New England d/b/a Verizon New Hampshire (Verizon) and KMC Telecom V, Inc., (KMC V) jointly filed with the New Hampshire Public Utilities Commission (Commission) an Interconnection Agreement (Agreement). The Agreement is adopted by KMC V pursuant to section 252(i) of the Telecommunications Act of 1996, 47 U.S.C. § 252(i). The Agreement was originally negotiated between Level 3 Communications, LLC and Verizon NH (Level 3 Agreement), docketed under DT 01-017 and effective by operation of law as of April 26, 2001. Dark Air Corporation, a Competitive Local Exchange Carrier (CLEC), subsequently adopted the Level 3 Agreement, which the Commission approved nisi by Order No. 23,928 (March 8, 2002) in Docket DT 02-023.

KMC V, sought certification in New Hampshire as a CLEC in DT 00-139 but, as KMC V is a provider of data services only, the Commission denied certification by letter dated May 14, 2001. Nonetheless, the lack of CLEC certification does not affect Verizon's obligation under state and federal law to interconnect with KMC V and to negotiate in good faith the terms and

conditions of such interconnection. In fact, an interconnection agreement between KMC V and Verizon went into effect by operation of law on August 20, 2001 in DT 01-115.

The Agreement we here consider is a comprehensive set of terms and conditions that will facilitate the provisioning of telecommunications service by KMC V in New Hampshire.

Staff recommends the Agreement go into effect immediately because this Agreement is the adoption of an agreement previously approved by Order Nisi in Docket No. DT 02-023 and no comments or request for a hearing were received in that docket.

We have reviewed the filing and find that approval is warranted. As the Agreement is an adoption of an agreement currently in effect, we will accept Staff's recommendation and allow this Agreement to be effective immediately.

As new competitors enter the telecommunications market, we recognize that New Hampshire's 603 area code encounters constantly increasing demand. Accordingly, we will require that KMC Telecom V request and use numbers responsibly and conservatively, and invite KMC Telecom V to explore alternative mechanisms to use existing numbers as efficiently as possible.

Based upon the foregoing, it is hereby

ORDERED, that the Interconnection Agreement between KMC Telecom V, Inc., and Verizon New Hampshire is APPROVED; and it is

FURTHER ORDERED, that KMC Telecom V is required to comply with our Order No. 23,385 issued January 7, 2000, Order No. 23,392 issued January 27, 2000, and further orders issued by the Commission concerning number conservation; and it is

FURTHER ORDERED, that KMC Telecom is prohibited from placing any orders under this Agreement and from otherwise doing business in New Hampshire until such time as KMC has complied with all requirements of applicable federal and state law or regulation; and it is

FURTHER ORDERED, that any clause in the Agreement found to be in violation of any Commission order is null and void.

By order of the Public Utilities Commission of New Hampshire this eleventh day of December, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary

